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Establishing a policy for external investigations of deaths that occur under certain circumstances at the Milwaukee County House of Correction and the Milwaukee County Jail

**A RESOLUTION** 

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WHEREAS, Wis. Stat. § 175.47 outlines a procedure for the review of deaths involving law enforcement officers but not a jail officers; and

WHEREAS, the Milwaukee County Jail (Jail) and House of Correction (HOC) are staffed by correctional officers who are defined as "jail officers" and not "law enforcement officers," therefore the state statute does not apply to them; and

WHEREAS, though Jail and HOC staff are not governed by Wis. Stat. § 175.47, neither are prohibited from following it as a best practice; and

WHEREAS, the HOC already informally models the state external investigation statute in these matters; and

WHEREAS, there have been four (4) deaths that occurred in the Jail this year in April, July, August, and October; and

WHEREAS, 2013 Wisconsin Act 348 resulted in the enactment of Wis. Stat. § 175.47, which establishes an external investigative procedure whenever an off-or-on duty officer is involved in a custodial death; and

WHEREAS, Wis. Stat. § 175.47 requires that all law enforcement agencies have a written policy on investigations of officer-involved deaths, that the policy require that an investigation be conducted by at least two (2) investigators, one of who must be the lead investigator, and that neither investigator be employed by the agency that employs the involved officer: and

WHEREAS, such a policy may allow for an internal investigation so long as it does not interfere with the external investigation; and

WHEREAS, such an external investigation must occur in an expeditious manner culminating with a report to the District Attorney of the county in which the officerinvolved death occurred; and

WHEREAS, if the District Attorney determines there is no basis for prosecution, the investigators shall release the report, redacting any privileged information under the public record law, Wis. Stat. § 19.35(1)(a); and

WHEREAS, pursuant to Wis. Stat. § 895.46, Milwaukee County is liable for any judgments entered against public officials or government employees for acts committed within the scope of employment; and

WHEREAS, pursuant to Wis. Stat. § 59.52(12), the Milwaukee County Board of Supervisors is ultimately responsible for examining and settling claims, demands, or causes of action against Milwaukee County; and

WHEREAS, the Milwaukee County Board of Supervisors is therefore obligated as a policy matter to follow best practices countywide, so as to limit liabilities; and

WHEREAS, the Milwaukee County Board of Supervisors requires as a policy matter and to formalize current procedures that the HOC follow the statutory protocol for investigating deaths that occur within that facility whenever deaths therein involve inmate-on-inmate assaults, staff use-of-force or unexplained or suspicious circumstances; and

WHEREAS, the Milwaukee County Sheriff (Sheriff) is a constitutional and statutory officer with distinct duties regarding Jail operations and taking charge of prisoners; and

WHEREAS, the Board recommends that the Sheriff follow the statutory procedure for investigating deaths that occur within the Jail given the four (4) deaths that have occurred in the Jail over a six (6) month period between April and October 2016; now, therefore,

BE IT RESOLVED, that it is the broad policy of Milwaukee County that the House of Correction and the Office of the Sheriff follow the statutory procedure outlined in Wis. Stat. § 175.47 for external investigations of deaths at the House of Correction and the Jail whenever deaths therein involve inmate-on-inmate assaults, staff use-of-force, or unexplained or suspicious circumstances; and

BE IT FURTHER RESOLVED, that the House of Correction and the Office of the Sheriff, pursuant to Wis. Stat. § 59.794(3)(b), shall provide an informational report on implementation of this policy to the County Board by the January 2017 committee cycle.